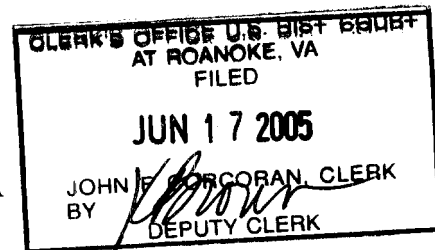


IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION



ALVIN O'BRINE WASHINGTON,  
Plaintiff,

v.

STERLING PROFFIT, et al.,  
Defendants.

Civil Action No. 7:04CV00671

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

By: Samuel G. Wilson  
United States District Judge

Plaintiff Alvin O'Brine Washington brings this action pursuant to 42 U.S.C. § 1983, claiming that several employees of the Central Virginia Regional Jail assaulted him on two occasions in 2000 in violation of his Eight Amendment rights. The defendants have filed a motion to dismiss, claiming that Washington failed to exhaust available administrative remedies. Washington, in turn, claims in a verified statement that he attempted to exhaust but that counsel for the defendants impeded his efforts. This action is before the court on the Report and Recommendation of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b). The Magistrate Judge found that the defendants have failed to counter Washington's claims that counsel for the defendants impeded his efforts to exhaust and recommended that the court deny the defendants' motion to dismiss. The defendants have filed objections to the Report and Recommendation. Upon de novo review of the Report, the objections, and the record as a whole, the court agrees with the Report's findings and recommendations. Thus, it is hereby **ORDERED** that the Report and Recommendation is **ADOPTED** in its entirety and that the Defendants' motion to dismiss is **DENIED**.

ENTER: This 17th day of June, 2005.



UNITED STATES DISTRICT JUDGE